

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO PROVIDE FOR THE ISSUANCE  
OF \$28,285,000 AGGREGATE PRINCIPAL AMOUNT  
OF ELECTRIC SYSTEM REVENUE WARRANTS,  
SERIES 2011, DATED DECEMBER 21, 2011, OF  
THE CITY OF HUNTSVILLE, ALABAMA

BE IT ORDAINED by the City Council (herein called the "Council") of the City of Huntsville (herein called the "City") in the State of Alabama as follows:

Section 1. Findings. The Council has determined and hereby finds and declares that the following facts are true and correct:

(a) The City has heretofore executed and delivered to The Bank of New York Mellon Trust Company, N.A., as successor trustee (herein called the "Trustee"), a Trust Indenture dated as of December 1, 1986 (herein called the "1986 Indenture"), under and pursuant to which the City has issued its Electric System Revenue Warrants, Series 1986, dated December 1, 1986 (the "Series 1986 Warrants"), none of which are presently outstanding and unpaid.

(b) Under the provisions of Article IV of the 1986 Indenture, the City reserved the right to issue additional warrants (herein called "Additional Warrants") or other parity debt (herein called "Additional Parity Debt") to be secured (in the case of Additional Warrants) by the 1986 Indenture, as at any time supplemented, and by a pledge of the Pledged Revenues (as defined in the 1986 Indenture) on a parity with the Series 1986 Warrants, upon compliance with the conditions set out in said Article IV. Acting under said reserved right, the City has heretofore issued the following series of Additional Warrants which are now outstanding under the Indenture hereinafter described (excluding those Additional Warrants the full provision for payment and retirement of which has been made):

(i) its Electric System Revenue Warrants, Series 2002, in the aggregate principal amount of \$9,920,000 (herein called the "Series 2002 Warrants"), and

(ii) its Electric System Revenue Refunding Warrants, Series 2007, in the aggregate principal amount of \$13,195,000 (herein called the "Series 2007 Warrants").

No Additional Warrants other than those listed above are now outstanding and unpaid. The City has not heretofore issued, and there is not presently outstanding, any Additional Parity Debt.

(c) The City is not in default at this time in payment of the Series 2002 Warrants or the Series 2007 Warrants and no such default is imminent.

(d) It is necessary, advisable and in the public interest that the City refund the Series 2002 Warrants and pay the costs of capital improvements to the System, including, without limitation, various capital projects related to growth, reliability and system improvements in distribution lines, substations and delivery points (the "2011 Improvements").

(e) It is necessary, advisable and in the public interest that the City issue the Series 2011 Warrants hereinafter authorized to refund the Series 2002 Warrants as aforesaid, to pay the costs of the 2011 Improvements, to make a deposit into the reserve fund established under the Indenture (defined hereinafter) and to pay the costs of issuing the said Series 2011 Warrants.

Section 2. Authorization of Series 2011 Warrants. There are hereby authorized to be issued by the City \$28,285,000 aggregate principal amount of Electric System Revenue Warrants, Series 2011, dated December 21, 2011 (herein called the "Series 2011 Warrants"), all under the terms, conditions and provisions set out in the 1986 Indenture as heretofore supplemented and amended and as supplemented by the Seventh Supplemental Indenture provided for in Section 4 of this ordinance. All the provisions of the 1986 Indenture, as so supplemented and amended (herein called the "Indenture"), are hereby adopted as a part of this ordinance.

Section 3. Source of Payment of the Series 2011 Warrants. The principal of and the interest on the Series 2011 Warrants shall be payable solely from the revenues derived from operation of the City's electric utility system (as it may at any time be constituted), to the extent provided in the Indenture. Neither the Series 2011 Warrants nor any of the agreements herein contained shall ever constitute an indebtedness of the City, within the meaning of any constitutional or statutory provision or limitation. The general faith and credit of the City are not pledged to payment of the Series 2011 Warrants, and the Series 2011 Warrants shall not be general obligations of the City. None of the agreements, representations or warranties made or implied in this ordinance or in the issuance of the Series 2011 Warrants shall ever impose any personal or pecuniary liability or charge upon the City, whether before or after any breach by the City of any such agreement, representation or warranty, except with the revenues from the said system. Nothing contained in this section shall, however, relieve the City from the performance of the several covenants and representations on its part herein contained.

Section 4. Authorization of Seventh Supplemental Indenture. The Council does hereby authorize and direct the Mayor of the City to execute and deliver, for and in the name and

behalf of the City, to the Trustee, a Seventh Supplemental Indenture to be dated as of December 21, 2011 (herein called the "Seventh Supplemental Indenture"), in substantially the form presented to the meeting at which this ordinance is adopted (which form shall be attached as Exhibit I to the minutes of the meeting at which this ordinance is adopted and is hereby adopted in all respects as if set out in full herein) and does hereby authorize and direct the City Clerk of the City to impress on the Seventh Supplemental Indenture the corporate seal of the City and to attest the same.

Section 5. Confirmation of Sale of the Series 2011 Warrants. The action of the Mayor of the City in executing, for and in the name of and on behalf of the City, a Purchase Contract dated December 6, 2011, between the City and the Underwriters named therein (herein together called the "Underwriters"), in the form presented to the meeting at which this ordinance is adopted (which form shall be attached as Exhibit II to the minutes of the meeting at which this ordinance is adopted and is hereby adopted in all respects as if set out in full herein), which agreement provides for the sale of the Series 2011 Warrants to the Underwriters, is hereby ratified and confirmed in all respects. The sale price of the Series 2011 Warrants is \$31,285,002.60, which price reflects an underwriting discount of \$169,710 and net original issue premium of \$3,169,712.60.

Section 6. Authorization of the Preliminary and Final Official Statements. The City hereby approves and adopts the Preliminary Official Statement dated November 10, 2011, respecting the Series 2011 Warrants, a copy of which is attached to the minutes of the meeting at which this ordinance is adopted as Exhibit III (which is hereby made a part of this ordinance to the same extent as if set out in full herein). The action of the Mayor and the City Clerk of the City in causing the Preliminary Official Statement to be "deemed final" as of its dated date for purposes of Rule 15c2-12 promulgated by the Securities Exchange Commission are hereby accepted and confirmed. The action of the Underwriters in causing the Preliminary Official Statement to be distributed on the part of the City is hereby ratified and approved. The Mayor of the City is hereby authorized and directed to execute a final Official Statement of the City with respect to the Series 2011 Warrants dated December 6, 2011, a copy of which is attached to the minutes of the meeting at which this ordinance is adopted as Exhibit IV (which is hereby made a part of this ordinance to the same extent as if set out in full herein). The said Mayor is hereby authorized and directed to cause the said final Official Statement to be delivered to the purchasers of the Series 2011 Warrants.

Section 7. Authorization of Continuing Disclosure Agreement. The Mayor of the City is hereby authorized and directed to sign, for and in the name and behalf of the City, a Continuing Disclosure Agreement dated as of December 21, 2011 (herein called the "Continuing Disclosure Agreement"), in substantially the form presented to the meeting at which this ordinance is adopted (which form shall be attached as Exhibit V to the minutes of the meeting at which this ordinance is adopted and is hereby adopted in all respects as if set out in full herein), with such changes as the said Mayor shall approve, and the Council does hereby authorize and direct the City Clerk of the City to impress on the Continuing Disclosure Agreement the corporate seal of the City and to attest the same.

Section 8. Authorization of Escrow Trust Agreement. The Mayor of the City is hereby authorized and directed to execute and deliver, on behalf of the City, an Escrow Trust

Agreement between the City and The Bank of New York Mellon Trust Company, N.A., as escrow trustee, dated as of December 21, 2011 (the "Escrow Agreement"), which agreement provides for the payment of the outstanding Series 2002 Warrants and is in substantially the form presented to the meeting at which this ordinance is adopted (which form shall be attached as Exhibit VI to the minutes of the meeting at which this ordinance is adopted and is adopted in all respects as if set out in full herein), with such changes as the said Mayor shall approve. The City Clerk of the City is hereby authorized and directed to impress the seal of the City on the Escrow Agreement and to attest the same.

Section 9. Execution of Series 2011 Warrants and Delivery of Series 2011 Warrants and Seventh Supplemental Indenture. The Mayor of the City is hereby directed to cause each of the Series 2011 Warrants to be signed in the name and behalf of the City by the signature of the said Mayor, the City Clerk of the City is hereby directed to cause the corporate seal of the City to be impressed on each of the Series 2011 Warrants, and to attest the said seal and each of the Series 2011 Warrants by his signature on each of the Series 2011 Warrants, and the City Treasurer is hereby directed to register the Series 2011 Warrants as claims against the City to the extent specified in the form of his certificate set forth on the Series 2011 Warrants specified in Section 1.4 of the Seventh Supplemental Indenture and to execute said certificate, all in the manner contemplated by the Seventh Supplemental Indenture; and the said Mayor is hereby directed thereupon to deliver the Seventh Supplemental Indenture and the Series 2011 Warrants to the Trustee, and to direct the Trustee to execute the Seventh Supplemental Indenture and to authenticate and deliver the Series 2011 Warrants to the Underwriters, upon payment to the City of the purchase price set forth hereinabove.

Section 10. Application of Proceeds of Series 2011 Warrants. The entire proceeds derived by the City from the sale of the Warrants shall be paid to the Trustee and applied in accordance with the provisions of Section 2.2 of the Seventh Supplemental Indenture.

Section 11. Call of Series 2002 Warrants. In order to make provision for payment of the outstanding Series 2002 Warrants, the City is hereby authorized to deposit into the escrow fund established pursuant to the Escrow Agreement the entire amount necessary for the purposes set forth therein. The City does hereby call for redemption on December 1, 2012, those of the Series 2002 Warrants having stated maturities on December 1, 2013, and thereafter, at a price of 101% of their face amount.

Section 12. Severability Provisions. The various provisions of this ordinance are hereby declared to be severable. In the event any provision hereof shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect any other portion of this ordinance.

Section 13. General Authorization. The Mayor, the City Clerk and the City Treasurer of the City are hereby further authorized and directed to take such further action as shall be necessary to accomplish the matters herein provided for.

ADOPTED this 15<sup>th</sup> day of December, 2011.

\_\_\_\_\_  
/s/ Mark Russell  
President of the City Council  
City of Huntsville, Alabama

Attest:

\_\_\_\_\_  
/s/ Charles E. Hagood  
City Clerk  
City of Huntsville, Alabama

\_\_\_\_\_ moved that unanimous consent be given for immediate consideration of and action on said ordinance, which motion was seconded by \_\_\_\_\_ and, upon the said motion being put to vote, the following vote was recorded:

**YEAS:**

**NAYS:**

The Chairman thereupon declared that the motion for unanimous consent for immediate consideration of and action on said ordinance had been unanimously carried. \_\_\_\_\_ thereupon moved that the ordinance be finally adopted, which motion was seconded by \_\_\_\_\_ and, upon the said motion being put to vote, the following vote was recorded:

**YEAS:**

**NAYS:**

The Chairman thereupon announced that the motion for adoption of said ordinance had been unanimously carried.

\* \* \* \* \*

There being no further business to come before the Council, the meeting was duly adjourned.

\_\_\_\_\_  
/s/ Mark Russell  
President of the City Council  
City of Huntsville, Alabama

Authenticated:

\_\_\_\_\_  
/s/ Charles E. Hagood  
City Clerk  
City of Huntsville, Alabama

Approved:

\_\_\_\_\_  
/s/ Tommy Battle  
Mayor  
City of Huntsville, Alabama